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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,827	07/31/2003	Keith Vander Woude	0503	8142

7590

09/08/2004

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EXAMINER

STERLING, AMY JO

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/630,827	Applicant(s) WOUDE ET AL.	
	Examiner Amy J. Sterling	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☒ Claim(s) 7 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

This is the first Office Action for application number 10/630,827, Portable Post Support, filed on 7/31/03. Claims 1-9 are pending.

### ***Information Disclosure Statement***

The information disclosure statement submitted on 7/31/03 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said central opening" in line 11. There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 2004/0056169 to Harbaugh.

The patent to Harbaugh discloses a post support having a body (40) of a certain height, the body having a bottom (44, 60) and an inclined flexible (Molded Plastic is a flexible material, See page 3, Paragraph 0047 for material selection) side portion (40a-c) between the body bottom and a top portion, the sides which are inclined inwardly toward the body top portion, and a chamber opening upwardly from the body, the body having a body top portion (10, 12) extending across the opening of the chamber of the body and having a vertical central support conduit (70), a body top cover (110) with an under surface and a central opening and means (96) for securing the body top cover to the body top portion, (Cover could be put under nut to hold it to the body) a post securing means (80, (98) on the body bottom within the body chamber, the body top portion having a separate means (80, 96) spaced from the central opening thereto.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 2004/0056169 to Harbaugh as applied to claim 1 above, and in view of United States Patent No. 4591126 to Berney.

Harbaugh discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the post securing means has an embossment extending upwardly from the body bottom.

Berney shows a post support device (10, 11) which has a body (10) with a bottom (13) which has an embossment (19) extending upwardly from the bottom, which is used to further support the bottom of the post which is to be secured. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Berney to have added an embossment in order to further support the post.

***Allowable Subject Matter***

Claims 7 and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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The prior art does not show in combination with the post support device a cover that has a cam edge on the body top portion within the top opening, which is included toward the body bottom, an aperture adapted, and a restraining protrusion extending at an acute angle from the body cover undersurface and an protrusion extending from the cover under surface toward the restraining projection, the restraining projection having an upper surface facing the over undersurface and the protrusion.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various supporting bases

204/0069922 to Wu

6557297 to Receveur

6446930 to Li

6070848 to Ogren

5271594 to Djelouah

31199588 to Keats

1725244 to Bareham

1687790 to Powers

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached

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(M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
8/24/04



ANITA KING  
PRIMARY EXAMINER